

Human Resources Bulletin Number 2003-07

Title of Issuance: Pay Cap Waiver and Overtime Rate for Emergency Situations and Wildland Fire

Subject: Compensation and Pay

Reference: 5 United States Code 5542(a); 5 CFR 550-106(c); 5 CFR 105(a) Public Law 106-558; Public Law 107-20;

Effective Date: October 6, 2003

Sunset Date: December 31, 2004

The purpose of this bulletin is to identify the emergency or mission critical situations in which the biweekly pay cap may be waived to an annual pay cap and to describe the overtime rate entitlement.

In accordance with 5 CFR 550, there are emergency situations for which the biweekly pay cap may be waived. The definition of “emergency” for the purpose of this bulletin is defined in 5 CFR 503(III) and includes wildland fire suppression and control. The definition states that an emergency situation is, “...a temporary condition posing a direct threat to human life or property” or any act needed to preserve and protect the natural or cultural resources that has been defined by the Director as being “mission critical” for the National Park Service. The following circumstances identify situations for which the biweekly pay cap waiver would apply:

1. Those assigned to emergency wildland fire activities (including wildland fire use).
2. Those involved in the preparation and approval of a Burned Area Emergency Stabilization and Rehabilitation Plan (ESR). The biweekly pay cap is waived for these employees only until the initial ESR plan is submitted for approval.
3. Those required to augment planned preparedness staffing levels to enhance short term suppression response capability, severity activities, accident or after action reviews or emergency wildland fire funded prevention activities.
4. Those involved in similar wildland fire activities that are approved for coverage on a case-by-case basis by an agency fire director.

In order to qualify for the biweekly waiver, an employee's work must be charged to a wildland fire, ESR, severity, or wildland fire suppression funds tied to the support of suppression operations and that work must be recorded on a time sheet approved by an appropriate supervisor.

The biweekly pay cap can be waived for other emergencies if approved by OPM, the President of the United States or the head of an Agency.

The overtime rate entitlement is a separate issue and the limits are granted by P.L. 106-558 and 107-20. Full overtime is authorized for all employees engaged in performing duties described in 1 through 4 above. Full overtime is not authorized for exempt employees on non-wildland fire activities unless they are working in a non-exempt position for more than 20% of their work hours within the week.

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